

### **REMARKS**

Favorable reconsideration of this application in light of the present amendments and the following discussion is respectfully requested.

Claims 1, 4, and 6 are pending. Claims 2, 3, 5, and 7-9 were previously cancelled without prejudice. Claims 1 and 4 have been presently amended.

In the Office Action, Claim 4 was objected to due to an informality. Claims 1 and 4 were rejected as being unpatentable over Nishida et al (U.S. Patent No. 6,842,207), Fujimori et al (U.S. Pat. Appl. Publ. No. 2002/0075441), Yi et al (U.S. Pat. Appl. Publ. No. 2003/0104291), and further in view of Inoue et al (JP 2001-091727). Claim 6 was rejected as being unpatentable over Nishida et al, Fujimori et al, Yi et al, and Inoue et al in view of Ochiai et al (U.S. Pat. No. 6,768,531).

**Regarding the claim objection**, Claim 4 has been amended to address the informality associated with the claim dependence identified in the Office Action. Thus, the objection to Claim 4 has been overcome. Applicant points out that the claimed feature of “*the same* negative-type photoresist” (with emphasis added) further limits Claim 4.

**Regarding the rejection on the merits**, the Office Action adds Inoue et al (JP2001-091727) as a reference and asserts on page 4 that Inoue et al “teach that the simultaneously forming of spacers and light shield layers can be done with single exposure process (Paragraph 0039).” However, this assertion is incorrect.

This is because, like Yi et al (U.S. Patent No. 2003/0104291), Inoue et al do not disclose the feature of the present invention, which explains that “the columnar spacer and the light shield layer are formed simultaneously by a single exposure process through a photo mask”. In paragraphs [0025], [0030], and [0033], Inoue et al describe that rear-face exposure

is carried out from the rear-face side of a glass substrate 2a using coloring pixels as a mask (photo mask 1). Further, the front-face side of the glass substrate 2a is exposed using a pillar shaped space pattern mask 17b (photo mask 2). Lastly, to form a circumference pattern of a light-shielding film 32, mask 17c for rear-face exposure (photo mask 3) is used. In other words, in Inoue et al, it is necessary to apply two photo masks for forming a light shielding film, and one photo mask for forming a pillar shaped spacer. Accordingly, Inoue et al describe the carrying out of a multiple exposure process (i.e., a front-face exposure and a rear-face exposure). Unlike that asserted in the Office Action, Inoue et al do not disclose or suggest that the columnar spacer and the light shield layer are formed simultaneously using a negative-type photosensitive resin material by undergoing *a single exposure process*, as defined in Claim 1.

In addition, Inoue et al do not disclose or suggest a structure in which a columnar spacer is arranged on a color filter layer. Accordingly, a combination of Inoue et al with Fujimori et al (even if considered for the sake of argument to be a single exposure process, which it is not) would not, without further modification, produce the defined columnar spacer of Claim 1 disposed (i.e., formed in a single exposure process) not at the first pixel but on the second color filter layer at the second pixel.

Hence, the combination of Nishida et al, Fujimori et al, Yi et al, and Inoue et al asserted in the Office Action as being obvious would not produce the all the features of Claim 1. M.P.E.P. § 2143.03 requires, to establish a case of *prima facie* obviousness, all the claim limitations must be taught or suggested by the prior art. Accordingly, a case of *prima facie* obviousness has not been established.

Moreover, the multiple exposure process in Inoue et al is a *teaching away* from the claimed single exposure process. The Court in In re Gurley, 31 USPQ2d 1130 (Fed. Cir. 1994) stated that:

A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or *would be led in a direction divergent from the path that was taken by the applicant*. The degree of teaching away will of course depend on the particular facts; in general, a reference will teach away if it suggests that the line of development flowing from the reference's disclosure is unlikely to be productive of the result sought by the applicant. [Emphasis added]

Here, the reference Inoue et al with its multiple exposure process leads in a direction divergent from the path that was taken by the Applicant, and thus teaches away from the claimed single exposure process.


Hence, for this additional reason, the combination of Nishida et al, Fujimori et al, Yi et al, and Inoue et al asserted in the Office Action as being obvious is not proper and should be removed.

In light of these arguments for patentability, Applicant respectfully submits that Claim 1 and the claims dependent therefrom patentably define over the art of record.

Consequently, in view of the foregoing discussion and present amendment, it is respectfully submitted that this application is in condition for allowance. An early and favorable action is therefore respectfully requested.

Respectfully submitted,

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